

## Early learning – Safety checking common questions

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## Do service providers need to be safety checked?

Yes. You meet the children's worker definition if your work may or does involve regular (or overnight) contact with children. "Work" and "regular" and "contact" are all defined.

The use of the word "may" could imply that everyone engaged or employed by an early learning service meets the definition of a children's worker since there is always the possibility of contact with children in any role in an early learning service. However, the term "regular" is defined in the legislation and determines when the definition of a children's worker applies.

Service providers come in many forms from the owner/operator, community based governing body or large corporate entities to name a few. Anyone engaged or employed by the service provider has the possibility of contact with children through carrying out their role in ensuring good governance and management practices. Some of these roles can be on site all the time, very regularly or infrequently. These roles and scenarios should be documented in the safety checking procedure along with the safety checking requirements.

Not every role in an early learning service meets the definition of 'regular or overnight contact with children' therefore, it is possible that not every role in an early learning service requires a safety check. In this case a Police vet and a corresponding risk assessment will be required as outlined in Schedule 4 of the Education and Training Act 2020. This provides for police vetting for those that are on site but do not meet the definition of a children's worker.

We've approved a screening service to undertake safety checks for people who own and work in their own early learning service, see the above guidance on "Safety checks done by a third party".

## I'm taking over ownership of an existing service. Do I need to do new safety checks for existing staff?

No, you do not need to gather new evidence for safety checking the service's existing staff however, complete your own assessment of risk for each staff member.

You must:

- get familiar with the safety check requirements and our guidance
- ensure you have a written procedure in place that reflects your new service's governance and management
- check that all safety checking has been appropriately completed for all existing staff
- undertake your own risk assessment for each staff member
- check that records are in place, collated and stored securely on file, and made available to us on request
- complete full safety checking and Police vetting as applicable for all new employees.

If any records are unclear, incomplete or suggests a person poses a risk to children's safety, then you must do your own full safety check of existing staff. This situation would be a self identified non compliance with the Regulations and Licensing Criteria. If the risk to children is high, as there is no Police

vet, or current practising certificate and referee check (but not limited to) this would be mitigated by excluding the staff member from coming into contact with children until the full safety check has been completed.

## **Do governance members of the service provider legal entity need to be safety checked? When do governance members of a service provider need to be safety checked or police vetted?**

Who is considered to be a governance member will depend on the type of service provider legal entity. It is likely the 'office holder' role described in the entity's constitution or trust deed, which has greater responsibility than the role of an ordinary member, will be considered a governance member. Service providers may need to get legal advice on this.

Service providers need to consider if and when their staff and governance members need to be safety checked under the Children's Act 2014 or police vetted under the Education and Training Act 2020. Those people in governance positions only need to do so if they meet the definition of a children's worker (Children's Act, 2014) or are an employee or contractor (Education and Training Act 2020).

## **What does the service provider need to do if something changes that makes the statutory declaration incorrect?**

**e.g. the service provider has new governance members, or people's circumstances change that make the existing statutory declaration incorrect.**

The service provider needs to be assured that they have assessed new governance members and existing governance members, to ensure that the existing statutory declaration provided to the Ministry of Education remains correct.

You do not need to notify the Ministry of Education every time someone new becomes part of the service provider UNLESS that person's circumstances make the information you have provided on the statutory declaration incorrect.

If you need to provide a new statutory declaration to the Ministry of Education, it will be reviewed, and a decision made about whether the service provider continues to be fit and proper to hold a licence. Given the range of unique circumstances that may be identified, all decisions are made on a case-by-case basis at the Secretary's discretion.

## **What if a staff member whom I safety checked previously leaves then returns?**

Evidence of all children's worker safety checks must be kept for at least as long as the children's worker is employed or engaged, then securely destroyed. It is likely that you would have this practice in place for all employees therefore with no records available to you, you will need to complete a full safety check.

You are ultimately responsible for ensuring that the person doesn't pose a risk to children. You should complete all components of their safety check.

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## **Do relief teachers need to be safety checked?**

Yes, relief teachers need to be safety checked.

You can do the safety check yourself, or choose to use a relief teacher agency to do some or all components of the safety check. If you choose to use a relief teacher agency, follow the above guidance "Safety checks done by a third party."

A full safety check must be done before the reliever starts work and then a re-check done every three years.

## **Do students need to be safety checked?**

Yes, students who are working in a service as part of an educational or vocational training course must be safety checked. This includes school students (regardless of their age) on work experience and trainee teachers on practicum.

You can do the safety check yourself, or choose to use the educational or training provider to do some or all components of the safety check, eg the school or teacher training provider. If you choose to use another organisation's safety check, follow the above guidance "Safety checks done by a third party."

A full safety check must be done before the student starts in the service, and then a re-check done every three years.

## **Do volunteers need to be safety checked?**

No, volunteers do not need to be safety checked. But you may choose to have a policy of safety checking volunteers.

Students do need to be safety checked though. See above.

## Do playcentre parents need to be safety checked?

Yes, if they are paid and not all parents/guardians of all children attend all of the time.

Yes, if they paid or not and enrolled on Playcentre's parent education programme and not all parents/guardians of all children attend all of the time.

Otherwise, no.

Yes	If they are paid and not all parents/guardians of all children attend all of the time.
No	If they are paid and all parents/guardians for all children attend all of the time.
No	If they are not paid and not all parents/guardians of all children attend all of the time.
No	If they are not paid and all parents of all children attend all of the time.
Yes	If they are enrolled on Playcentre's parent education programme, and not all parents/guardians of all children attend all of the time, paid or not.
No	If they are enrolled on Playcentre's parent education programme, and all parents/guardians of children attend all of the time, paid or not.

## Do playgroup co-ordinators need to be safety checked?

Yes, if they are paid, and not all parents/guardians of all children attend all of the time.

Otherwise, no.

Yes	If they are paid, and not all parents/guardians of all children attend all of the time.
No	If they are paid, and all parents/guardians for all children attend all of the time.
No	If they are not paid, and not all parents/guardians of all children attend all of the time.
No	If they are not paid, and all parents of all children attend all of the time.

## Do cleaners employed by the service as a member of staff need to be safety checked?

It depends. The key here is to determine whether the member of staff is a children's worker. A **children's worker** is a person who may have **regular** or **overnight contact** with children as part of their work. All core and non-core children's workers who have regular or overnight contact with children are required to be safety checked. See the **Definition of 'children's worker'** and **'regular or overnight contact'** section of this page.

If the cleaner is working in the service when it is operating and children are present, they are a children's worker and would need to be safety checked. However, if the cleaner is working outside the service open hours and does not have any contact with the children, safety checking is not required.

## Safety checking: 7 components

	For all other children's workers already employed before 1 July 2015	For all children's workers, every 3 years
Identity	✓	✓
Work History		
Interview		
Referee		
Membership	✓	✓
Police vet	✓	✓
Risk assessment	✓	✓

## Identity check

There are reported cases in education settings where people have gained employment using another person's identity and credentials. You need to check that the person is who they say they are.

The first time you do the identity check, you must check the person's identity by:

1. using an electronic identity credential such as [RealMe](#) (provided the service provider has integrated with RealMe), or
2. checking the original of a primary identity document and a secondary identity document.

The primary identity document is to check that the identity **exists**. The secondary identity document is to check that the identity is **living**.

If you use primary and secondary identity documents, then you **must** use documents from the list below.

One of the identity documents needs to have a photo of the person. If neither has a photo, then you must ask the person for some additional information - see note below.

**Please note:** The 18+ card is now known as the Kiwi Access Card. 18+ cards are still valid for 10 years from the date that is issued, so they can continue to be used as proof of identity until they expire. New cards will be issued under Kiwi Access Card and can also be used as a secondary identity document. The list linked below will be updated to reflect this in due course.

If the person's name is different between the primary and secondary documents, then you must ask them to provide a name change document from the list below.

[List of identity and name change documents](#)

Search your personnel records to check whether the person's identify is being, or has been, used by another person. This is particularly useful for large organisations.

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## Note

If neither of the primary or secondary identity documents has a photo of the person or the primary and secondary documents have different names and there is no name change document, then you must ask the person to provide:

1. the name and contact details of an **identity referee**, and
2. a photo of themselves **authenticated** by the identity referee, or
3. a statement signed and dated by the identity referee that confirms that the primary identify document relates to that person.

To **authenticate** a photo, the identity referee needs to write on the back of the photo "certified true likeness of <full name of person>", or something similar. They must also sign and date the back of the photo.

The **identify referee** must:

- have known the person for at least 12 months, and
- be at least 16 years of age, and
- not be related to the person and not be part of the person's extended family, and
- not be a spouse or partner of the person, and
- not live at the same address as the person.

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## Every 3 years

You must confirm whether the person has changed their name from the name on the documents provided during the initial identity check. If it has changed, then you must ask them to provide a name change document from the list below.

[List of identity and name change documents](#)

## What to check

- Check documents are current, ie not expired.
- Check documents for authenticity and discrepancies. Warning signs include tears, discoloration or other damage, inconsistencies in lettering, spelling of names or other details such as dates/places of birth.
- If you detect a discrepancy:
  1. ask the person for an explanation (unless it is clearly fraudulent in which case contact NZ Police or the document's issuing body), and
  2. resolve the discrepancy before proceeding with the recruitment process.
- If the person cannot provide a satisfactory explanation, they should not be employed or engaged.

## Do I need to check original identity documents?

Yes. Only accept originals to allow for examination of all security features that are not immediately obvious and are difficult to replicate, such as watermarks and embossing. Photocopied documents are relatively easy to alter and should, therefore, not be accepted as evidence of identity.

[Using documents as evidence – NZ Digital government](#)

If a prospective worker can only produce copies during the recruitment process, you must check original documents before they start work.

## Are expired identity documents acceptable?

No. Documents that are not currently valid tend to be older and are less likely to contain up-to-date security features, making them easier to tamper with or forge.

[Using documents as evidence – NZ Digital government](#)

## Do I need to keep certified copies of ID documents on file?

No. You need to keep evidence that the ID check has been done (eg. copies of ID documents on file), but these do not need to be certified.

## If a prospective employee doesn't have one of the documents on the accepted list, are there any alternatives?

No. Only the documents on the list in the safety checking regulations are acceptable forms of ID. The secondary identity documents list is being updated to include the Kiwi Access Card, which is the new name for the 18+ card. This can also be used to verify identity.

## How does RealMe work?

The service provider must be integrated with RealMe. (Note that integration is only viable for larger organisations who have the capability and capacity). The children's worker consents to share their identity information online with the service provider.

Since the identity is provided online, a screenshot from RealMe cannot be accepted as an identity document.

## Work history

Gathering information about a person's work history provides context for their skills, knowledge, experience and personal attributes. It supports the development of interview and referee questions.

You must obtain a chronological summary of the person's work history, including a description of positions held.

The work history must be for a minimum of the preceding 5 years, including dates for each position held.

## What to check

- Check that the work history includes names of employing/contracting organisations, positions held and description of positions held.
- Are there any unusual patterns, such as geographically scattered short-term jobs or significantly different roles, eg from a professional registered role such as a teacher to caretaker or a voluntary role?
- Are there any gaps in work history? If there are, ask the person for an explanation.
- Critically analyse the information and ask the person for an explanation if anything is unusual.

The mechanism for gathering this may be varied, but usually it is requested via a CV. An application form is a good way to gather more information about a person, and should be used in addition to a CV. Additionally, when you have asked any clarifying or follow up questions it is important to document these responses. It will be useful information to consider when making your risk assessment.



## Interview

The way a person responds to careful questioning can provide insight into their attitudes towards children. An interview also provides the opportunity to confirm information provided by the person as part of the application process.

You must interview the person face to face, by phone or by using other communications technologies. Interviews should be done face-to-face, but can be done via Skype or Zoom. If using other communication technologies, be aware of their limitations. Email is not a suitable medium for an interview.

You must obtain information relevant to conducting a risk assessment of the person.

## What to check

### Planning ahead and follow-up

- Carefully choose who will conduct the interview. A small panel is recommended, to allow for multiple perspectives on a person. Consider each panel member's experience, knowledge and skills, and choose at least one person with child protection knowledge.
- Prepare questions ahead of the interview, and take notes during the interview. Consider bringing the panel together before the interview to prepare or practice.
- Use open questions that invite a descriptive response, rather than a yes/no answer, eg questions that start with "what", "where", "who" or "how".
- Ask questions that will get the person to describe specific examples from their own experience, rather than asking hypothetical questions (though these can be useful to a point).
- Ask questions to gather information about the person's experience, behaviour, beliefs and attitudes.
- Ask questions to confirm information otherwise provided by the person, eg through their application or work history.
- After the interview, discuss any concerns with other panel members.
- Consider whether a second interview is required to enable follow-up and clarification on any issues identified

### Ask questions that describe the persons experiences and relationships working with children

- What rewarding experiences they have had working with children.
- What they think constitutes professional practice when working with children.
- The reason they think they get along with children or children like them.
- Other relationships they have had with children outside the working or volunteer environment.
- The kind of relationships they hope to develop with the children and families in your service.

### Ask questions that explore their attitudes - if they've ever had to deal with the following situations, including process and outcome, or what would they do if

- A child or young person disclosed abuse.
- A child or young person was "cheeky" or hit them.
- They discovered two children with stolen property, fighting or engaged in sexual play.
- A child or young person invited them to become involved in intimate or touching behaviour.
- A child or young person threatened to make a false allegation of abuse about them.
- They witnessed a colleague or their own manager abusing a child, eg smacking, verbally abusing or shaming a child.
- A child or young person arrived with unusual bruising.

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### Ask questions that show the person's views on child safe practice

- How they think children should be "disciplined".
- Their thoughts on being alone on the job with a child or young person.
- How would they contribute to a culture of child protection in your service.

### Ask questions about the person

- Whether complaints have ever been made about their professional practice, how they responded and what the outcome was.
- Whether they have ever been convicted of an offence.
- The chances of an abuse allegation being made about them.
- Reasons for leaving previous jobs.

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The example questions above are to help assess whether a person is suitable to fulfil a role as a children's worker and whether they pose a risk to children. You will want to ask the usual competency questions as well, to ascertain if the person can perform in the role.

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## Referee

Asking for relevant information from a referee can provide valuable information about a person. It can also help you find out if there are any gaps or differences in information otherwise provided by the person as part of the application process.

You must get the name of at least one referee from the person.

Ensure the referee is not related to the person or part of the person's extended family.

Contact that referee to request any information held by, or known to, the referee that may be relevant to conducting a risk assessment of the person.

Where possible, get the names of and contact 3 referees. At least one of the referees should be a recent direct line manager. Whilst the person may not want you to contact their current employer early on in the recruitment process, you should follow this up at an appropriate point, e.g. just before you finalise an offer.

## What to check

### Planning ahead

- Prepare the questions ahead of contacting the referee, and to take notes during the conversation.
- Use open questions that invite a descriptive response, rather than a yes/no answer, eg questions that start with "what", "where", "who" or "how".
- Ask questions to gather information about the person's experience, behaviour, beliefs and attitudes.
- Ask questions to confirm information otherwise provided by the person, eg through their work history or interview.
- Contact the referee in person - usually, this is done over the phone.
- Remind the referee to be honest about the person.
- Consider whether a follow-up conversation is required to enable follow-up and clarification on any issues identified.

### Ask questions about the person's experiences and relationships working with children

- Describe how the person behaves around children.
- Whether they think the person gets along with children or whether children like them.
- What relationships they have had with children outside the working or volunteer environment.
- Whether they have ever witnessed the person abusing a child, eg smacking, verbally abusing or shaming a child.
- Whether they think the person is safe and suitable to work with children.

### Ask questions about the person

- Whether complaints have ever been made about the person's professional practice, how the person responded and what the outcome was.
- Whether they know if the person has ever been convicted of an offence.
- Whether they trust the person, or did they ever have a reason to doubt the person's honesty.
- Reasons for leaving previous jobs.
- Whether they would work with the person again in the future.
- Invite the referee to share anything else they might think is relevant.

If there are any inconsistencies in information provided or allegations of conduct or competence were discussed, give the person an opportunity to provide an explanation. Treat any allegations with caution, and keep children's safety as your primary concern.

### Who can be used as a referee?

The purpose of the safety check is to determine whether a person is suitable to fulfil a role as a children's worker and whether they pose a risk to children's safety. Therefore the person providing a reference check must be able to answer questions relevant to that purpose. For example, a recent direct line manager could provide such a reference, but a neighbour probably couldn't.

### Is online or written reference checking acceptable?

Yes. The legislation does not prescribe how a reference check is undertaken, just that it is undertaken. Reference checking is one of the most important components of a safety check. Referees provide a hugely valuable source of information about a person's skills, attitudes, values, past behaviours and relationships.

The way information is gathered is not what's important. Rather, it is that reference checking is planned and done thoroughly, regardless of how the information is gathered. Questions should be tailored to the role, and must include questions relating to child protection.

## Professional membership

Checking the professional organisation, licensing authority or registration authority can provide additional information about any conditions or issues that need to be considered for the risk assessment.

You must get the name of any of the following if relevant to the person's role:

- professional organisation of which the person is a current member, eg a counsellor may belong to the NZ Association of Counsellors, or
- licensing authority that has issued a current licence to the person, eg a driver's licence if driving is part of their role, or
- registration authority that has issued a current registration or practising certificate to the person, eg a practising certificate from the Teaching Council.

Get any relevant information from the organisation or authority named above that may be relevant to a risk assessment of the person, e.g. check the driver's licence or certification status.

[Teaching Council register](#)

### What to check

- Check online register/s, or check documents for authenticity or discrepancies.
- Check that the name the person has supplied is the same as that shown on any membership, licensing or registration documents.
- Check expiry or renewal dates.
- If you find anything unusual, ask the person for an explanation.

### What am I looking for on the Teaching Council register?

Check the person's certification category and expiry date. If the teacher has any censures or conditions, this will be noted on the register.

### Police vet

The police vet is a search of the NZ Police database for information held about a person, including criminal history and other relevant information.

[Police vetting](#)

You must obtain a vet from NZ Police.

If the Police vet shows a conviction for a specified offence, that person must not be employed in a core children's worker role, unless they have an exemption.

A conviction for a specified offence will be clearly shown on the police vet, alongside a statement advising that they cannot be employed. It is an offence to employ a person with a specified conviction in a core children's worker role. This may lead to criminal prosecution and a fine of up to \$50,000.

[List of specified offences](#)

[Core worker exemption](#)

### What to check

- Are there any convictions on the Police vet? How many? When did they occur? What are they for - are they minor (eg speeding, shoplifting) or serious (eg family violence)?
- What other information is shown on the Police vet? Is it relevant to the role? An offence against children or other vulnerable people is an obvious concern. Patterns of fraudulent offending may also be a concern, given the importance of trust.
- Did the person otherwise provide the information themselves, eg through their application or work history? If it was omitted, what is their explanation? If they did otherwise provide information, have they undertaken any rehabilitation.

## What about certificated teachers?

You don't need to request a NZ police vet for a teacher who has a current practising certificate or limited authority to teach from the Teaching Council. This is because the Council will only approve a practising certificate or authorisation once a police vet has been obtained and considered to be satisfactory as per Teaching Council policy.

### [Relying on the Teaching Council's vet](#)

If a teacher's practising certificate lapses, the teacher cannot continue working as a children's worker until the practising certificate has been renewed, or you obtain a NZ police vet yourself to inform an updated risk assessment.

## What about people who have lived overseas?

In addition to obtaining a NZ Police vet, you should ask them to provide copies of police certificates from their countries of citizenship and from any country in which they have lived for one or more years, within the last 10 years.

### [Police vetting people from overseas](#)

## Can I use a Ministry of Justice conviction check instead of a police vet?

No, you must obtain a vet from NZ Police.

### [Criminal record check – Ministry of Justice](#)

## Risk assessment

Use your professional judgement to decide whether the person is suitable to fulfil a role as a children's worker and whether they pose a risk to children. This needs to be documented and include a clear rationale to support your assessment that the person is suitable to work with children and be a part of your organisation. Ensure the risk assessment is **completed before the children's worker starts working** in their role.

You must:

- Take into account any information gathered for the other components of the safety check (identity check, work history, interview, referee, membership and Police vet).
- Consider this guidance on risk assessment.
- Assess the person to determine whether the person poses, or would pose, any risk to the safety of children.
- If the person does, or would, pose a risk, assess the extent of that risk.
- If the Police vet shows a conviction for a specified offence, that person must not be employed in a core children's worker role, unless they have an exemption.

A conviction for a specified offence will be clearly shown on the police vet, alongside a statement advising that they cannot be employed.

It is an offence to employ a person with a specified conviction in a core children's worker role. This may lead to criminal prosecution and a fine of up to \$50,000. Ensure the risk assessment is **completed before the children's worker starts working** in their role.

## What to check

- Is the person safe to work with children?
- Would the person support and adhere to your child protection policy, and actively contribute to a culture of child protection in your organisation?
- Are there any inconsistencies in information supplied, eg information not mentioned on the person's work history or during interview that was provided by the referee or in the Police vet?
- Are there any patterns of concerning attitudes or behaviours? These can be subtle and wider than the presence or absence of criminal convictions.

- Do you need to follow-up or gather any additional information, eg from another referee or more information from a referee already contacted?
- Do you need to clarify any issues with the applicant directly, eg allowing them an opportunity to respond to any information that is unclear or inconsistent? Did they deliberately withhold information?
- Do you need to seek outside expert advice to support you in making a decision?

## **Guidelines for risk assessments required under Schedule 4 of the Education and Training Act 2020**

The assessment of information returned in a Police vet to determine whether the person would pose a risk to the safety of children must take into account the following:

- relevance of the information and risk to the role being vetted for (e.g. whether there are any matters relating to children or other vulnerable people),
- the nature and severity of the information (e.g. whether the individual was charged, acquitted, convicted or required to complete an educational program),
- whether there is a pattern of similar information,
- the individual's age at the time the relevant matters occurred,
- the amount of time that has passed since the relevant matters occurred,
- the individual's conduct since the relevant matters occurred,
- any other aggravating/mitigating factors.

Note the Police vetting requirements under [Schedule 4 of the Education and Training Act 2020\(external link\)](#) are for relevant persons who are not children's workers. They do not limit or otherwise alter the requirements for safety checking of children's workers required under the Children's Act 2014.